

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Friday 27th October, 2017

No. 524

**GOVERNMENT OF SIKKIM
SOCIAL JUSTICE, EMPOWERMENT AND WELFARE DEPARTMENT
(SOCIAL WELFARE DIVISION)
GANGTOK**

No: 04/SJE&WD

Dated: 16th October, 2017

NOTIFICATION

The draft of certain rules which the State Government proposes to make in exercises of the powers conferred by sub-section (1) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016), is hereby published as required by that sub-section of that section of the said Act for information of all persons likely to be affected thereby and Notice is hereby given that the said draft rules would be taken into consideration after expiry of a period of 45(forty five) days from the date on which the notification is published in the Official Gazette. Any objections or suggestions which may be received from any person with respect to the said draft before the expiry of the period so specified will be considered by the State Government.

DRAFT RULES

**Short title and
commencement:**

"CHAPTER-I"

1. (1) These rules may be called the Sikkim Rights of Persons with Disabilities Rules, 2017.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions:

2. (1) In these rules, unless the context otherwise requires:-
 - (a) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);
 - (b) "certificate" means a certificate of disability issued by a Certifying authority referred to in sub-section (1) of section 57 of the Act;
 - (c) "certificate of registration" means a certificate of registration issued by the competent authority under section 50 of the Act;
 - (d) "Form" means a form appended to these rules;

- (e) "Limited Guardianship" means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability;
 - (f) "State Government" means the State Government under the Social Justice, Empowerment and Welfare Department and such other Departments of Government of Sikkim.
- (2) Words and expression used herein and not defined, but defined in the Act shall have the meanings respectively assigned to them in the Act.

"CHAPTER-II"

Committee on Research on Disability

**State Committee
for Research on
Disability:**

3. (1) The State Government shall constitute a Committee for Research on Disability in the State consisting of the following members, namely:-
- (i) an eminent person having vast experience in the field of Science and Medical research to be nominated by the State Government-
ex officio-Chairperson;
 - (ii) the Director of Health Services of the State Government-
ex officio -Member;
 - (iii) five members as representatives from registered State level organization representing each of the five groups of specified disabilities in the Schedule of the Act to be nominated by the State Government- Members;
- Provided that atleast 1(one) representative of the registered organization is a women;
- (iv) the Director/Joint Secretary or Additional Secretary dealing with Empowerment of Persons with Disabilities in the State Government – Member Secretary.
- (2) The Chairperson may invite any Expert as a special invitee.
- (3) The term of office of the nominated members shall be for a period of 3 (three) years from the date on which they enter upon office but the nominated members shall be eligible for re-nomination for one more term.
- (4) One half of the members shall constitute the quorum of the meeting.
- (5) The non-official members and special invitees shall be entitled for travelling allowance and dearness allowance as admissible to a Group A or equivalent officer of the State Government.

- (6) The State Government may provide the committee with such clerical and other staff as the State Government consider necessary.
- (7) The Committee may meet once in a calender year or any exigencies of service as deem fit by the Chairperson.

Person with disability not to be a subject of research:

- 4. No person with disability shall be considered to be a subject of research except when the research involves physical impact on his person.

"CHAPTER-III" LIMITED GUARDIANSHIP

Limited Guardianship:-

- 5. (1) A District Court or any designated authority as designated by the State Government on its own or otherwise shall grant the support of limited guardianship to a Person with disability to take a legally binding decision on his behalf.
- (2) The District Court or the designated authority before granting limited guardianship for the person with disability shall satisfy itself that such person is not in a position to take legally binding decision of his own.
- (3) The District Court or the designated authority shall take a decision preferably within a period of 1(one) month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to his notice of the need of such limited guardianship:

Provided that the consent of the person to act as a limited guardian shall also be obtained before grant of such limited guardianship.
- (4) The validity of the limited guardianship as appointed under sub-rule (1) shall be initially for a period of 5 (five) years which can be further extended by the District Court or the designated authority as the case may be:

Provided that the District Court or the designated authority shall follow the same procedure while extending the validity of the limited guardianship as followed while granting the initial guardianship.
- (5) While granting the support of such limited guardianship, the District Court or the designated authority shall consider a suitable person to be appointed as a limited guardianship in the following preference of merit:-
 - (a) the parents or adult children of the Person with disability;
 - (b) immediate brother or sister;
 - (c) other blood relatives or care givers or prominent personality of the locality.
- (6) Only those individuals who are over the age of 18 (eighteen) years and who have not been previously convicted of any

cognizable offence as defined in the Code of Criminal Procedure 1973 (1 of 1974) shall be appointed.

- (7) The limited guardian appointed under sub-rule (1) shall consult the Person with disability in all matters before taking any legally binding decisions on his behalf.
- (8) The appointed limited guardian shall ensure that the legality binding decisions taken on behalf of the Person with disability are in the interest of the Person with disability.

"CHAPTER-IV" EDUCATION

Terms and conditions before recognition of the educational institution;

6. (1) The terms and conditions of grant of recognition to the educational institutions by the competent authority in the State may include the requirements to comply with the provisions of section 16 of the Act.

"CHAPTER-V" Certificate of Registration of Institutions

Application for, and grant of certificate of registration,-

7. (1) A person desirous of establishing or maintaining an institution for persons with disabilities may make an application in 'Form-A' to the competent authority as referred to in section 51 of the Act.
- (2) Every application made under sub-rule (1) shall be accompanied with:-
 - (a) documentary evidence of work in the area of disability;
 - (b) the constitution or bye laws or regulations governing the institution;
 - (c) audited statement and details of grants received in the last 3 (three) years, preceding the date of application;
 - (d) a statement regarding total number of persons employed in the institution along with their respective duties;
 - (e) the number of professionals employed in the institution;
 - (f) a statement regarding qualifications of the professionals employed by the institution; and
 - (g) the proof of residence of the applicant.
- (3) Every application made under sub-rule (1) shall comply with the following requirements in respect of the concerned institutions, namely:-
 - (a) that the institution had been working in the field of rehabilitation of Persons with disabilities for not less than 3(three) years immediately before the date on which the application is made;

- (b) that the institution is registered under the Indian Societies Registration Act, 1860 (XXI of 1860) or the Sikkim Registration of Societies, Associations and Other Voluntary Organization Act, 2008 and under any other law for the time being in force in the State and a copy of such registration certificate along with the bye-laws and Memorandum of Association of the society shall accompany the application;
 - (c) that the institution has not been running to profit any individual or a body of individuals;
 - (d) that the institution has employed professionals registered with the Rehabilitation Council of India to cater to the special needs of children with disabilities;
 - (e) that the institution has adequate teaching and learning material for the Persons with disabilities; and
 - (f) that the institution has submitted its audited accounts and annual reports of last 3(three) years with the competent authority.
- (4) The certificate of registration under this rule, unless revoked under section 52 of the Act, shall remain in force for a period of 5 (five) years on and from the date on which it is granted or renewed.
- (5) An application for the renewal of certificate of registration shall, be made in the same manner as the application for grant of certificate under sub- rule(1) accompanied with the previous certificate of registration and a statement that the applicant is applying for renewal of certificate so accompanied.
- Provided that such application shall be made before 60(sixty) days of the expiry of the validity of such certificate;
- Provided further that the competent authority may consider application for renewal of the certificate of registration after 60(sixty) days but not later than 120 (one hundred twenty) days, if he is satisfied that sufficient reasons has been provided for such delay.
- (6) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (5), the certificate of registration shall continue to be in force until orders are passed on the application and the certificate of registration shall be deemed to have expired if application for its renewal is not made within 60(sixty) days as specified in the said proviso.
- (7) Every application made under sub-rule (1) or sub-rule (5), in which the competent authority referred to in sub-section (1) of section 51 of the Act, is satisfied that the requirements for grant of certificate of registration under the Act and these rules have been complied with, shall be disposed of by it within a period of 90(ninety) days thereafter.

Appeal against the order of Competent authority,-

8. Any person aggrieved by the order of the competent authority referred to in sub-section(1) of section 51, refusing to grant a certificate of registration or revoking a certificate of registration may, within 3(three) months from the date of order, prefer an appeal against that order to the appellate authority referred to in sub-section (1) of section 53 and the appellate authority may, after such enquiry into the matter as it considers necessary and after giving the appellant an opportunity of hearings, make such order as it thinks fit.

"CHAPTER-VI"

Appeal Regarding Certificate of Disability

Appeal against the decision of the authority issuing certificate of disability,-

9. (1) Any person aggrieved with the decision of the authority issuing the certificate of disability may within 90(ninety) days from the date of the decision, prefer an appeal to the appellate authority designated by the State Government for the purpose under sub-section(1) of section 59 of the Act in the following manner:-
- (a) The appeal shall contain brief background and the grounds for making the appeal.
- (b) The appeal shall be accompanied by a copy of the certificate of disability or letter of rejection issued by the certifying authority;
- Provided that where a Person with disability is a minor or suffering from any disability which renders him unfit to make such an appeal himself, the appeal on his behalf may be made by his legal or limited guardian as the case may be.
- (2) On receipt of such appeal, the appellate authority shall provide the appellant an opportunity to present his case and thereafter pass such reasoned and detailed order as it may deem appropriate.
- (3) Every appeal preferred under sub-rule (1) shall be decided as expeditiously as possible as and not later than a period of 60(sixty) days from the date of receipt of the appeal.

"CHAPTER -VII"

State Advisory Board

Allowances for the Members of the State Advisory Board,-

10. (1) The non-official Members of the State Advisory Board on disability nominated under sub-section(6) of section 67 not residing in the State capital region, shall be paid an allowance of Rs. 2,000 (rupees two thousand) per day for each day of the actual meetings of the said Board.
- (2) The non-official Members of the State Advisory Board on disability residing outside the State capital region shall be paid daily and travelling allowances for each day of the actual

meetings of the said board at the rates admissible to a Group 'A' or equivalent Officer of the State Government:

Notice of the Meeting:

11. (1) The meetings of the State Advisory Board on disabilities constituted under sub-section(1) of the section 66 of the Act(hereinafter in this Chapter referred to as 'the Board') shall ordinarily be held in the Capital of the State on such dates as may be fixed by its Chairperson

Provided that it shall meet at least once in every 6(six) months.

- (2) The Chairperson of the Board shall, upon the written request of not less than 10(ten) members of the Board, call a special meeting of the Board .
- (3) 15(Fifteen) clear days' notice of an ordinary meeting and 5(five) clear days' notice of a special meeting specifying the time and the place at which such meeting to be held and the business to be transacted thereat, shall be given by Member – Secretary of the Board to the Members of the Board.
- (4) Notice of a meeting may be given to the Members of the Board by delivering the same to them by messenger or sending it by registered post to their respective last known places of residence or business or by email or in such other manner as the Chairperson of the Board may, in the circumstances of the case, *thinks fit*.
- (5) No member of the Board shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given 10(ten) clear days' notice to the Member Secretary of the Board, unless the Chairperson of the Board, in his discretion, permit him to do so.
- (6) The Board may adjourn its meeting from day to day or to any particular day as under:-
- (a) Where a meeting of the Board is adjourned from day to day, notice of such adjourned meeting shall be given, to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to the rest of the members;
- (b) where a meeting of the Board is adjourned not from day to day but from the day on which the meeting is to be held to another date, notice of such meeting shall be given to all members of the Board in the manner as specified in sub-rule(4).

Presiding Officer,-

12. The Chairperson of the Board shall preside at every meeting of the Board and in his absence, the Vice-Chairperson thereof shall preside, but when both the Chairperson and vice-Chairperson of the Board are absent from any meeting, the members of the Board present shall elect one of the members to preside at that meeting.

Quorum,-

13. (1) One- third of the total members of the Board shall form the quorum for any meeting.
- (2) If at any time fixed for any meeting or during the course of any meeting less than one- third of the total members of the Board are present, the Chairperson thereof may adjourn the meeting to such hours on the following or on some other future date as he may fix.
- (3) No quorum shall be necessary for the adjourned meeting of the Board.
- (4) No matter which had not been on the agenda of the ordinary or the special meeting of the Board, as the case may be, shall be discussed at its adjourned meeting.
- (5) (a) where a meeting of the Board is adjourned under sub-rule (2) for want of quorum to the following day, notice of such adjourned meeting shall be given to the members of Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to the other members; and
- (b) where a meeting of the Board is adjourned under sub-rule (2) for want of quorum not to the following, but on a date with sufficient gaps, notice of such adjourned meeting shall be given to all the members of the Board in the manner as specified in sub-rule(4) of rule11.

Minutes,-

14. (1) Record shall be kept of the names of all the members of the Board who attended the meeting of the Board and of the proceedings at the meetings in a book to be maintained for that purpose by the Member-Secretary of the Board.
- (2) The minutes of the previous meeting of the Board shall be read at the beginning of every succeeding meeting, and shall be confirmed and signed by the Presiding officer at such meeting.
- (3) The proceedings shall be open to inspection by any member of the Board at the office of the Member-Secretary of the Board during office hours.

Business to be transacted at meeting,-

15. Except with the permission of the Presiding officer, no business which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of rule 11 shall be transacted at any meeting of the Board.

Agenda for the meeting of the State Advisory Board,-

16. At any meeting of the Board, business shall be transacted in the order in which it is entered in the agenda, unless otherwise resolved in the meeting with the permission of the Presiding officer:
- Provided that either at the beginning of the meeting of the Board or after the conclusion of the debate on a motion during the meeting, the Presiding officer or a member of the Board may suggest a change in the order of business as entered in the agenda and if the Chairperson of the Board agrees, such a change shall take place.

Decision of majority,-

17. All questions considered at a meeting of the Board shall be decided by a majority of votes of the members of the Board present and voting and in the event of equality of votes, the Chairperson of the Board, or in the absence of the Chairperson, the Vice-Chairperson of the Board or in the absence of both, the Member presiding at the meeting, as the case may be, shall have a second or casting vote.

No proceeding to be invalid due to vacancy or any defect,-

18. No proceeding of the Board shall be invalid by reasons of existence of any vacancy in or any defect in the Constitution of the Board.

District-level Committee,-

19. The District-level Committee on disability referred to in section 72 of the Act shall consist of:-
- (i) An officer of the Civil Service of the State, not below the rank of a District Magistrate or a Additional District Magistrate, as the case may be, of a district - ex-officio Chairperson;
 - (ii) Civil Surgeon or Chief Medical Officer - Member;
 - (iii) A Psychiatrist of the District Hospital - Member;
 - (iv) A Public Prosecutor of the District - Member;
 - (v) A Representative of a Registered organization - Member;
 - (vi) A Persons with disability as defined in clause(s) of section 2 of the Act - Member;
 - (vii) Any other members as invited by the Chairperson - Member;
 - (viii) District Officer dealing with Empowerment of Persons with disabilities - Member Secretary;

Functions of the Committee,-

20. The District-Level Committee on disability shall perform the following functions, namely:-
- (a) advise the District authorities on matters relating to rehabilitation and empowerment of Persons with disabilities;
 - (b) monitor the implementation of the provisions of the Act and the rules made thereunder by the District authorities;
 - (c) assist the District authorities in implementation of schemes and programmes of the Government for empowerment of Persons with disabilities;
 - (d) look into the complaints relating to non implementation of the provisions of the Act by the District authorities and recommend suitable remedial measures to the concerned authority to redress such complaints;
 - (e) look into the appeal made by the employees of Government establishment aggrieved with the action taken by the District level establishments under sub-section(4) of section 23 of the Act and recommend appropriate measures;
 - (f) any other functions as may be assigned by the State Government.

"CHAPTER-VIII"

State Commissioner for Persons with Disabilities

Qualification for appointment of State Commissioner.-

21. A person shall not be qualified to be appointed as a State Commissioner for Persons with disabilities under sub-section(1) of section 79 of the Act(In this chapter hereinafter referred to as the State Commissioner) unless,-

- (i) he has special knowledge or practical experience in respect of the matters relating to rehabilitation of Persons with disabilities;
- (ii) he has not attained the age of 60(sixty) years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement inviting applications for appointment of the State Commissioner, occurs;
- (iii) he seek retirement from the service if he is in service under the Central Government or a State Government, before his appointment to the post; and
- (iv) he possesses the following educational qualification and experience, namely:-

(A) Educational qualifications:

- (i) Essential: Graduate from a recognized university;
- (ii) Desirable: recognized degree or diploma in social work or law management or human rights or rehabilitation or education of disabled persons.

(B). Experience:

Atleast 20(twenty) years experience in a Group 'A' or equivalent post:-

- (i) in Central or State Government; or
- (ii) Public sector undertakings or Semi Government or Autonomous Bodies dealing with disability related matters or social sector; or
- (iii) worked in the capacity of a senior level functionary in a registered State or national or international level voluntary organization working in the field of disability or social development:

Provided that out of the total 20(twenty) years experience mentioned in this sub-clause, at least 3(three) years of experience in the recent past had been in the field of empowerment of Persons with disabilities.

Mode of appointment of the State Commissioner,-

22. (1) At least 6(six) months before the post of the State Commissioner is due to fall vacant, an advertisement shall be published in state level daily newspapers, one in English and the other in the vernacular language inviting applications for the post from eligible candidates fulfilling the criteria mentioned in rule 21.

- (2) A Search-cum-Selection Committee shall be constituted by the State Government to recommend to it a panel of 3(three) suitable candidates for the post of the State Commissioner.
- (3) Composition of the Search-cum-Selection Committee referred to in sub-rule (2) shall be governed by relevant instructions issued by the concerned administrative department of the State Government.
- (4) The panel recommended by the Search-cum-Selection Committee under sub-rule (2) may consist of persons from amongst those who have applied in response to the advertisement made under sub-rule (1) as well as from other willing eligible persons in the employment of State Government whom the committee may consider suitable.
- (5) The State Government shall appoint one of the candidates out of the panel recommended by the Search-cum-Selection Committee under sub-rule (2) as the State Commissioner.

Terms of the State Commissioner,-

23. (1) The State Commissioner shall be appointed on full-time or part time basis for a period of 3(three) years from the date on which he assumes office, or till he attains the age of 65(sixty-five) years, whichever is earlier.
- (2) A person may serve as State Commissioner for a maximum of 2(two) terms, subject to the upper age limit of 65(sixty-five) years.

Salary and allowances of the State Commissioner.-

24. (1) The salary and allowances of the State Commissioner shall be the salary and allowances as admissible to a Secretary to the State Government.
- (2) Where a State Commissioner, being a retired government servant or a retired employee of any institution or autonomous body funded by the Central or State Government, is in receipt of pension in respect of such previous service, the salary admissible to him under these rules shall be reduced by the amount of the pension, and if he had received in lieu of a portion of the pension, the commuted value thereof, by the amount of such commuted portion of the pension or such remuneration as the State Government decides on case to case basis on merit for part time appointment.

Other terms and conditions of service of the State Commissioner,-

25. The other terms and conditions of service of the State Commissioner shall be such as specified below, namely:-
 - (a) Leave:
The State Commissioner shall be entitled to such leave as is admissible to a Secretary to the State Government under the relevant provisions of the Sikkim Government Service (Leave) Rules, 1982 as amended from time to time.

(b) **Medical Benefits:**

The State Commissioner shall be entitled to such Medical benefits as is admissible to a Secretary to the State Government under the Sikkim Service (Medical Facilities) Rules as amended from time to time.

Resignation and removal,-

26. (1) The State Commissioner may, by notice in writing, under his hand, addressed to the State Government, resign from his post.
- (2) The State Government shall remove the State Commissioner from his office, if he;
- (a) becomes an undischarged insolvent: or
 - (b) engages himself during his term of office in any paid employment or activity outside the duties of his office: or
 - (c) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude: or
 - (d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or serious default in the performance of his functions as laid down in the Act: or
 - (e) without obtaining leave of absence from the State Government, remains absent from duty for a consecutive period of 15(fifteen) days or more; or
 - (f) has, in the opinion of the State Government, so abused the position of the State Commissioner as to render his continuance in the office detrimental to the interest of Persons with disabilities:
- Provided that no State Commissioner shall be removed from office under these rules except after following the procedure, mutatis mutandis, applicable in the Sikkim Government Servants' (Discipline and Appeal) Rules, 1985.
- (3) The State Government may suspend a State Commissioner, in respect of whom proceedings for removal have been commenced in accordance with sub-rule (2), pending conclusion of such proceedings.

Residuary provision,-

27. The other conditions of service of the State Commissioner, in respect of which no express provision has been made in these rules, shall be determined by the rules and orders for the time being applicable to the Secretary to the State Government.

Constitution of the Advisory Committee,-

28. (1) The State Government shall appoint an Advisory Committee comprising the following members, namely:-
- (a) five experts to represent each of the 5(five) groups of specified disabilities mentioned in the Schedule to the Act by rotation of whom two shall be women;

- (b) two experts or senior officers of the Government to be nominated by the State Government.
- (2) The tenure of the members of the Advisory Committee shall be for a period of 3(three) years.
- (3) The State Commissioner may invite subject or domain expert as per the need who shall assist him in meeting or hearing and in preparation of the report.

Procedure to be followed by State Commissioner,-

- 29. (1) A complainant may present a complaint containing the following particulars in person or by his agent to the State Commissioner or send it by registered post or by email addressed to the State Commissioner, namely:-
 - (a) the name, description and the address of the Complainant;
 - (b) the name, description and the address of the opposite party or parties, as the case may be, so far as they may be ascertained;
 - (c) the facts relating to complaint and when and where it arose;
 - (d) documents in support of the allegations contained in the complaint;
 - (e) The relief which the complainant claims.
- (2) The State Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party or parties mentioned in the complaint directing him to give his version of the case within a period of 30(thirty) days or such extended period not exceeding 15(fifteen) days as may be granted by the State Commissioner.
- (3) On the date of hearing or any other date to which hearing could be adjourned, the parties or their agents shall appear before the State Commissioner.
- (4) Where the complainant or his agent fails to appear before the State Commissioner on such days, the State Commissioner may either dismiss the complaint on default or decide on merits.
- (5) Where the opposite party or his agent fails to appear on the date of hearing, the State Commissioner may take such necessary action under Section 82 of the Act as he deems fit for summoning and enforcing the attendance of the opposite party.
- (6) The State Commissioner may dispose of the complaint ex-parte, if necessary.
- (7) The State Commissioner may on such terms as he deems fit and at any stage of the proceedings, adjourn the hearing of the complaint.

- (8) The State Commissioner shall decide the complaint as far as possible within a period of 3(three) months from the date of receipt of notice by the opposite party.

**Advisory
Committee to
assist the State
Commissioner,-**

30. (1) The State Government shall appoint an Advisory Committee comprising of 5(five) experts to represent each of the 5(five) groups of specified disabilities mentioned in the Schedule to the Act, of whom two shall be women.
- (2) The State Commissioner may invite subject or domain expert as per the need who shall assist him in meeting or hearing and in preparation of the report.
- (3) The tenure of the members of the Advisory Committee shall be for a period of 3(three) years and the members shall not be eligible for re-nomination.
- (4) The non-official members of the Advisory Committee, residing in the State capital, shall be paid an allowance of rupees two thousand per day for each day of the actual meeting.
- (5) Non-official members of the Advisory Committee, not residing in the State capital shall be paid daily and travelling allowances for each day of the actual meetings at the rate admissible to a Group 'A' officers of the State Government.

**Submission of
annual reports,-**

31. (1) The State Commissioner shall as soon as may be possible after the end of the financial year, but not later than the 30th day of September in the next year ensuing, prepare and submit to the State Government an annual report giving a complete account of his activities during the said financial year.
- (2) In particular, the annual report referred to in sub-rule (1) shall be in the form so that the details of separate matters be provided under separate heads inter-alia containing therein information in respect of each of the following matters, namely:-
- (a) names of officers and employees in the office of the State Commissioner and a chart showing the organizational set up;
- (b) the functions which the State Commissioner has been empowered under the Act and the highlights of the performance in this regard;
- (c) the main recommendations made by the State Commissioner;
- (d) progress made in the implementation of the Act in the State; and
- (e) any other matter deemed appropriate for inclusion by the State Commissioner or specified by the State Government from time to time to be included in the report.

**“CHAPTER- IX”
Public Prosecutor
Appointment of Public Prosecutor.-**

32. (1) The Public Prosecutor or Special Public Prosecutor to be appointed by the State Government in every Special Court shall have:-
- (a) law graduate from a recognized university;
 - (b) he/she have enrolled in the Bar Council of India;
 - (c) practical experience of handling cases of Persons with disabilities;
 - (d) experience at the Bar of not less than 7(seven) years;
 - (e) shall be well versed with local language and customs.
- (2) The fee and other remunerations of the Special Public Prosecutor specified or appointed under sub-section (1) of section 85 of the Act shall be the same as that of Public Prosecutor appointed by the State Government under the Code of Criminal Procedure ,1973 (2 of 1974) for conducting the cases.

**“CHAPTER-X”
State Fund for Persons with Disabilities**

**State Fund for
Persons with
Disabilities and its
management,-**

33. (1) There shall be credited to the State Fund for Persons with disabilities hereinafter referred to as 'The State Fund':-
- (a) all sums received by way of grants, gifts, donations, benefactions, bequests or transfer;
 - (b) all sums received from the State Government including grants in-aid; and
 - (c) all sums from such other sources as may be decided by the State Government.
- (2) There shall be governing body consisting of following to members to manage the State Fund, namely:-
- (a) Principal Secretary or Secretary, Department dealing with Empowerment of Persons with Disabilities, in the State Government - Chairperson;
 - (b) Additional Director or the Heads of the Accounts Section of the Department - Member;
 - (c) Two representatives from the Departments of Health Care, Human Services and Family Welfare, Department of Human Resource Development, Department of Labour, Finance, Revenue and Expenditure Department and Rural Management and Development Department in the - Members;

State Government, not below the rank of a Joint Secretary, by rotation in alphabetical orders

- (d) Two persons representing different types - Members; of disabilities to be nominated by the State Government, by rotation
- (e) Director or Joint Secretary or Additional Secretary in the Department dealing with Empowerment of Persons with Disabilities in the State Government – Convener and Chief Executive Officer.

- (3) The governing body shall meet as often as necessary, but at least once in every financial year.
- (4) The nominated members shall hold office for not more than 3(three) years.
- (5) No member of the governing body shall be a beneficiary of the Fund during the period such Member holds office.
- (6) The nominated non-official members shall be eligible for payment of travelling allowance and dearness allowance as admissible to a Group 'A' officers of the State Government for attending the meetings of the governing body.
- (7) No person shall be nominated as a member of the governing body if he –
 - (a) is, or has been, convicted of an offence, which in the opinion of the State Government, involves moral turpitude; or
 - (b) is, or at any time has been, adjudicated as an insolvent.

Utilization of the State Fund,-

- 34. (1) The State Fund shall be utilized for the following purposes, namely:-
 - a) financial assistance in the areas which are not specifically covered under any scheme and programme of the State Government;
 - b) administrative and other expenses of the fund, as may be required to be incurred by or under the Act; and
 - c) such other purposes as may be decided by the governing body.
- (2) Every proposal of expenditure shall be placed before the governing body for its approval.
- (3) The governing body may appoint secretarial staff including accountants with such terms and conditions as it may think appropriate to look after the management and utilization of the State Fund based on need based requirement.

- (4) The State Fund shall be invested in such manner as may be decided by the governing body.

Budget, –

35. The Chief Executive Officer of the State Fund shall prepare the budget for incurring expenditure under the State Fund in each financial year showing the estimate receipt and expenditure of the Fund, in January every year and shall place the same for consideration of the governing body.

Annual Report,-

36. The annual report of the Department dealing with Empowerment of Persons with disabilities in the State Government shall include a chapter on the State Fund.

'FORM-A'

APPLICATION FOR A CERTIFICATE OF REGISTRATION

[See rule 7(1)]

1. Name of applicant and his address:.....
2. Institution in respect of which application is made:
 - a. Name :
 - b. Address(Office/Project) :
 - c. Phone/Fax/Telex/(Office) :
(Project)
3.
 - i. Name of the Act under which the institution is already registered:
 - ii. Registration No. and date of registration:
(Please attach a photocopy)
4. Memorandum of Association and Bye-Laws of the institution:
(Please attach a photocopy)
5. Name, address, occupation and other particulars of the Members of the Board of Management/Governing Body of the institution:
6. Present activities of the institution
7. Present membership strength and categorization of the institution. List of documents to be attached:
 - (a) A copy of the annual report for the previous year,
 - (b) Audited Statement of account duly certified by Chartered Accountant for the last two years:
 - (i) Receipt and Payment Account (by Chartered Account for the last two years)
 - (ii) Income and Expenditure Account (by Chartered Accountant for the last two years)
 - (iii) Balance sheet for the last two years (by Chartered Accountant for the last two years)
 - (c) Details of staff employed by the institution.

- (d) Details of beneficiaries to be covered by the..... of the institution.
- (e) If hostel is maintained, then number of hostellers.
- (f) Other terms, if any.
- (g) Whether the institution is located on its own/rented building (Necessary evidence to be attached).

Name:

(Signature of the Applicant)

Designation:

Address:

Date:

Office Stamp:

Miss S. Rai, SCS
Secretary to the Government
Social Justice, Empowerment and Welfare Department,
FILE NO.GOS/SJE7WD/2017/6/(48)

